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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,096	01/15/2004	Richard Michael Lowry	21418-100	1277
28765	7590	02/03/2006	EXAMINER	
WINSTON & STRAWN LLP 1700 K STREET, N.W. WASHINGTON, DC 20006			PETRAVICK, MEREDITH C	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 02/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/760,096	Applicant(s) LOWRY, RICHARD MICHAEL	
	Examiner Meredith C. Petravick	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-17 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 18-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-17 is/are allowed.
- 6) ☒ Claim(s) 1,4,8 and 13 is/are rejected.
- 7) ☒ Claim(s) 2,3,5,7,9-12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-5 and 7-17 in the reply filed on 11/14/2005 is acknowledged.

Claim Objections

2. Claim 9 is objected to because of the following informalities: the limitation "the adjustable counterbalancing system" lacks proper antecedent basis. Claim 1 previously set forth a counterbalancing system but it was not adjustable. This causes confusion as whether the limitation in claim 9 is referring to the same limitation in claim 1. For the purpose of examination on the merits, it is assumed that Applicant is trying to further limit the counterbalancing system of claim 9 to be adjustable. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hawk 4,676,052.

Hawk discloses a marine backhoe dredge including:

- a vessel (10)

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- a backhoe moveably mounted and having a boom (18), a stick (20) and a bucket (44)
- a counterbalancing system including a support structure (33), a counterbalance (16) and a cable (35)

5. Claims 1, 4, 8 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Turner 919,498.

Turner discloses a marine backhoe dredge including:

- a vessel (a)
- a backhoe moveably mounted and having a boom (a2), a stick (part of a3) and a bucket (part of a3)
- a counterbalancing system including a support structure (a1), a counterbalance (back of vessel a) and a cable (Fig. 1)

Regarding claim 4, the backhoe is mounted on a turntable (a4).

Regarding claim 8, the support structure is an A-frame (a1).

Regarding claim 13, the vessel includes a plurality of spuds (a6).

Allowable Subject Matter

6. Claims 2-3, 5, 7, 9, 10-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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7. Claims 15-17 are allowed.

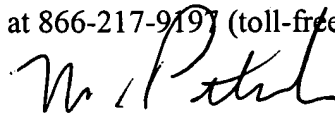
Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C. Petravick whose telephone number is 571-272-6995. The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Meredith C Petravick
Primary Examiner
Art Unit 3671

January 30, 2006